

TRADE AND THE ENVIRONMENT

The greening of protectionism

Green campaigners pose a new threat to trade liberalisation. It cuts across environmental policy, they argue. How far should free-traders concede their point?

IT HAS never been easy to persuade ordinary voters that freer trade is a cause worth defending. Its huge economic benefits are easily ignored when local jobs are threatened by foreign competition. But when companies have fought for protection, it has at least been possible to present them as defending selfish interests against the greater social good. Now trade liberals face a tougher challenge. American environmentalists are building a formidable popular coalition around the argument that the removal of trade barriers prevents the United States from pursuing whatever environmental policies it deems appropriate.

The coalition began as an attack on the three-country North American Free Trade Agreement, but has increasingly turned its guns on GATT and the Uruguay round of trade talks. And it has whipped up a huge number of Americans who had never previously taken an interest in such things. Groups like Public Citizen, founded by that veteran campaigner Ralph Nader, pull to-

gether an extraordinary range of interests. One recent attack on GATT by Public Citizen was signed by over 300 groups. They included the International Ladies' Garment Workers Union, the United Methodist Church, the American Cetacean Society and the Sierra Club. And whereas those who attack free trade are well organised and appeal easily to strong popular emotions, not so those who defend it.

The catalyst for the environmentalist onslaught was a judgment from a GATT disputes panel in late 1991 that the United States was in breach of GATT rules in blocking imports from Mexico of tuna that had been caught in ways that also killed dolphins. The American government had imposed an embargo reluctantly, well aware that GATT would disapprove. But a court case brought by environmentalists obliged it to implement the Marine Mammal Protection Act (MMPA). This laid down that tuna was not to be imported from any country that had a weak policy on dolphin pro-

tection, or whose fishermen destroyed more than 1½ times as many dolphins as the American fishing fleet did in the same year.

The panel's ruling exposed a number of ways in which GATT's principles limit national environmental policies. In particular, the panel relied on the principles that:

- Imported products must be treated as favourably as identical domestic ones; and the way the import is produced is not good reason to discriminate against it.
- Although a country can restrain trade to protect animal health or natural resources in its own territory, this exemption does not apply to such things elsewhere.
- A country cannot restrict trade on one product (say, Japanese computers) to enforce unrelated environmental policies (say, on whales). Several American laws—among them one intended to protect whales—lay down that trade bans must be applied against countries that will not follow America's environmental standards.

Thoughtful environmentalists accept that the MMPA was not an ideal test of GATT principles. It puts an unreasonable burden on a poorer country: how could Mexican tuna fishermen know in advance what 1½ times the American dolphin kill would be? Moreover, nice as dolphins may be, is killing them an environmental issue? They are in no danger of extinction. But such points leave most environmentalists unmoved.

Many economists (and *The Economist*) would argue that free trade is often in itself "green". Give markets a bigger role, notably in energy and farming, and—equally important—put strong environmental policies in place, and resources will be used more efficiently. GATT officials say they care just as much as environmentalists do about the planet's future; they simply disagree about the means. But the disagreement turns on points where compromise is hard to imagine. Two are crucial. What right has one country to dictate the environmental standards of another? And how can GATT accommodate the environmentalists' view that the way something is produced and disposed of may be one of its intrinsic characteristics? A car, for GATT, is a car. No, say the greens, it is also an assembly of metals and chemicals produced in certain ways and one day to be re-used or got rid of.

When standards differ

One of GATT's aims is to discourage countries from using technical standards, whether applied to products or manufacturing processes, as disguised barriers to trade. Rules affecting production costs are generally a country's own affair: if it chooses to



Rich countries want timber, poor ones lose forests

A catalogue of grievances

ENVIRONMENTALISTS object to GATT on the grounds that:

- Trade liberalisation encourages economic growth, and so damages the environment.
- GATT (and the proposed North American Free Trade Agreement), by limiting national sovereignty, limits the right of countries to apply whatever environmental measures they choose.
- GATT does not allow countries to keep out a product because of the way it is produced or harvested.
- GATT prevents a country imposing countervailing duties on imports produced under lower environmental standards than its own. It also discourages subsidies, which are one way to compensate producers for meeting higher environmental standards than their rivals.
- GATT will—if certain Uruguay-round proposals are agreed—encourage the harmonisation of product standards. This would expose higher standards on, for instance, food additives or pesticide residues, to challenge as trade barriers.
- GATT prevents countries imposing export bans, which they may want to use to protect, say, their own forests or elephants. American environmentalists want to ban the export of certain pesticides that are prohibited in the United States but sold to developing countries.
- GATT frowns on the use of trade measures to influence environmental policy outside a country's territory. Yet increasingly the issues that arouse environmental passion are those affecting what greens call the "global commons"—the oceans and atmosphere, animal and

plant species threatened with extinction—that concern all countries.

- GATT may undermine international environmental agreements, through its prohibition of trade measures that discriminate against individual nations. Yet such measures may be the most effective way for countries that play by the rules of an international agreement to penalise others that do not.
- GATT resolves disputes in a secretive way, without allowing environmentalists to put their arguments and without making important papers on a case available to them.

Bow your head, Adam Smith?



GATT through green eyes

have a tough pollution code or weak labour laws, so be it. But such things, says GATT, should not affect either its imports or its exports. Environmentalists in rich countries fear freer trade will make their governments less willing to impose high standards.

Differing standards may well cause increasing trade friction. Environment-based product standards can be set in ways that are easy for home producers to meet but not for foreigners. One example is recycling requirements. These can often favour producers close to the market. Thus Germany threatens to require manufacturers to take back and recycle old cars. German firms are ahead in designing cars that can largely be recycled. Even if they were not, it is easier for Volkswagen to take back an old car from Frankfurt than for Toyota to do so.

Proposals put forward in the Uruguay round by the GATT secretariat have given a new ferocity to the debate on standards. Re-

visions to the present GATT agreement on technical barriers to trade would insist that, even if an environmental standard applied equally to imports and home products, it could be challenged for not being the least trade-restrictive way to meet the aim. And proposed new rules for standards relating to health—human, animal or plant—would oblige countries either to base their standards on international rules, where these existed, or to set standards that did not needlessly discriminate against other countries where "similar conditions prevail".

American environmentalists are angry. The effect, they argue, might be to expose American standards on, say, allowable pesticide residues in food to challenge on the grounds that they were tougher than internationally agreed levels. Even moderate greens in the United States argue that Congress should not allow these two sets of proposals to be agreed unchanged.

There is trouble too over process standards, covering the way goods are produced. If polluters in one country have to carry the full costs of environmental damage, its manufacturers will face higher costs than foreign competitors who do not. So they will lose sales, at home and abroad, and be tempted to move their production and jobs to some less scrupulous country.

Plenty of studies support the common-sense view that differing environmental standards will affect relative competitiveness. But how much do they in fact affect trade or company location? An OECD study, published in 1985, found that pollution-control measures in France, Holland and America might have reduced their total exports by ½-1%. And economists have found little evidence that tough environmental standards do in practice cause companies to relocate. Other factors such as labour and transport costs, access to markets and political stability count much more.

Environmentalists are sceptical: they have been told so often by companies that tougher green standards will interfere with competitiveness. If standards do not significantly affect trade or location, they say, that just shows that standards everywhere are still too low. If polluters paid the true costs of their dirtiness, controls would make up a much larger part of their costs, and international differences would matter more.

Some economists agree. James Tobey, at the OECD, accepts that, as environmental standards are tightened, their extra cost may start to rise sharply. But he goes on to argue that tougher standards tend to induce technological advances that lessen this cost. If so, they may indirectly give a country a competitive advantage in some markets. Since standards are likelier to be levelled up internationally than down, manufacturers in other countries, foreseeing tightening of national standards there, will have an incentive to buy the cleanest technology available.

Why shouldn't they differ?

Suppose, though, that trade flows are indeed altered—or companies do move—because standards differ. Is that sufficient argument for harmonisation? There may be good grounds for differing standards. A country that cannot afford even to keep sewage out of its drinking water can reasonably not worry that the water may contain nasty chemicals. Even among equally rich countries, the absorptive capacity of the environment differs. So it may be more reasonable for Britain to dump muck into the ocean than for the countries of continental Europe to dump it into their rivers.

Even if rich and poor countries ought to harmonise standards, how would they agree? Would they impose a common standard on the output of pollution (tonnes of sulphur dioxide per 100MW of electrical power, for instance); and, if so, relative to

what (tonnes per citizen might seem fairer to poor countries)? Or would they apply the standard to the receiving environment (acidity of rivers and lakes)? Would it be enough to harmonise standards, or implementation as well? Plenty of East European countries have high environmental standards on paper, and are in fact filthy.

What would be the penalties when a country failed to meet a harmonised standard? If environmental standards are to be used as a benchmark that would justify a virtuous country imposing countervailing duties on goods from more complaisant ones, it is hard to imagine any but the greenest nations agreeing to the harmonisation, let alone the penalty.

The rights of nature

This debate about the standards that industry must meet has not, in fact, been the one arousing the strongest emotions. Far more heated have been the arguments over the treatment of living creatures—as a species or as individuals—and endangered ecosystems. These, environmentalists sometimes argue, are part of the “global commons”—world property, in which the citizens of all countries have a justifiable interest. But such arguments hide a simpler point: the campaigners do not want the purchasing power of their fellow-citizens to support activities based on the abuse, as they see it, of the rest of creation. So, if the country concerned will not mend its own ways, ban the trade that makes the abuse profitable.

How much, if any, of this is justifiable? GATT rules let a country ban imports of ivory to protect the elephant, so long as it bans all ivory sales, not just imports. But ivory is a distinct product. The rules would not allow a ban on imports of tropical timber, as Holland proposes for 1995; nor of furs from animals caught in leg-traps (legal in the United States, but threatened with a ban by an EC directive). The dividing line between tropical timber and the temperate sort is too vague a notion, and a fur from a humanely killed animal is indistinguishable from one that has suffered.

The solution here surely lies in labelling. If a consumer regards the way a cosmetic is tested, foxes killed or cattle raised as an intrinsic aspect of a lipstick, fur coat or beef steak, then she should have the right to that information. The tuna-dispute panel specifically accepted America's right to allow voluntary labelling schemes for cans of dolphin-friendly tuna, as long as these were applied evenly to imports and to American-caught fish. But GATT is uncomfortable with Austria's new scheme for labelling tropical timber, partly because it is mandatory and partly because temperate timber is excluded. Clearer rules on eco-labelling, widening the scope for such schemes; would be a modest concession for GATT's members to make to environmentalists.

At home and abroad

The case for allowing different standards on processes is compelling, where the environmental effects of manufacture are felt only within the country concerned. What a country does to its lakes, its soil or its city air ought to be its own affair, just as taxation is or rules on minimum wages. Most environmental standards apply to exactly these kinds of pollution. More difficult issues arise when one country's pollution hits another; when its dirty river supplies its neighbour's drinking water, or the gases it puts into the air change its neighbour's climate.

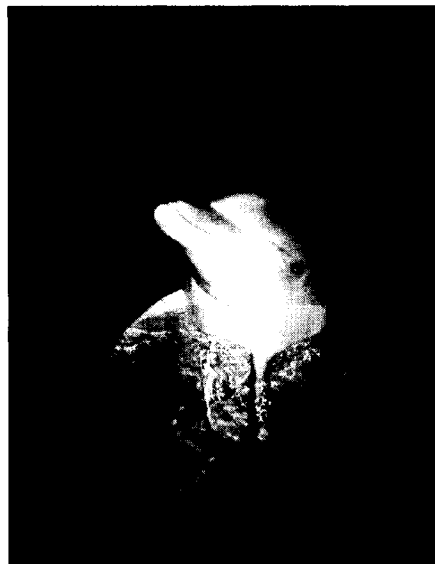
Here, a country claiming an interest in the environmental standards next-door is on stronger ground. But does that entitle it to impose trade restraints? No, say GATT rules. The proper way to handle international environmental problems, its officials argue, is through international agreements.

Yet such agreements may sanction trade measures that breach GATT's rules. That can happen for one of two reasons.

Sometimes international trade is the mechanism by which environmental damage is done: it carries toxic waste across the borders of countries that do not have the means to handle it safely, or endangered species to markets ready to pay enough to make it worth poaching them.

Sometimes trade measures are one of the few ways to bind an agreement together. Countries will take part in an international agreement only if the benefits exceed the costs. When a country outside an agreement cannot be excluded from its beneficial effects—because it shares the same global environment—then the other countries have only two ways to persuade this free-rider to change its mind. They can bribe it (which raises the costs of compliance to them) or bully it, and the easy way of doing that is to impose trade sanctions.

The GATT is not a free-standing institu-



The tuna-hunters' other victim

tion, like the International Monetary Fund, but a treaty. Suppose many of its members were to sign a second, environmental treaty which encouraged trade sanctions against a non-signatory. Which treaty then would have precedence? The Montreal Protocol, on substances such as chlorofluorocarbons (CFCs) which deplete the ozone layer, prescribes a ban on imports from non-signatories of products that contain CFCs or—still more anti-GATT—that are made by processes using them. The aim is to stop CFC-using industries simply migrating to non-signatory countries.

GATT needs to clarify a set of carefully restricted circumstances in which trade measures would be permitted under international environmental agreements. Trade measures against non-signatories would be permitted only if taken by multilateral agreement by a specified quorum of countries, and with a carefully defined right of appeal for the countries discriminated against. In fact, the GATT treaty nearly contained this sort of exemption. Article 20 of the GATT, which defines the few occasions when countries can apply trade restraints, began life as article 45 of an earlier document, the Havana charter. This permitted trade measures “taken in pursuance of any intergovernmental agreement which relates solely to the conservation of fisheries resources, migratory birds or wild animals”. Carefully (and not too broadly) worded, such a clause would go a long way towards greening the GATT without destroying it.

Towards reform

Arthur Dunkel, secretary-general of the GATT, accepts the need for some such greening—although he wants to complete the Uruguay round first. But the GATT is no stronger than the consensus among its members. On the integration of trade and environmental issues, there is no consensus either among member countries or within them. A GATT committee on trade and the environment, long moribund, was revived last year in the face of serious misgivings among developing countries. Its search for acceptable reforms has made little progress; the countries with most clout simply cannot decide what they want. The European Commission should find that easier: it represents EC countries on trade policy, but not on environmental policy. Even so, its environmental directorate—it has one—and its trade directorate often disagree.

Worst of GATT's problems is the confusion in Washington. Under both the Bush and Clinton administrations, American officials have been silenced by the absence of a clear policy. Until the American administration accepts that trade liberalisation is a goal worth fighting for, it will not be able to take a sensible decision on how far to sacrifice that principle to environmentalism.